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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 2000/9

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I. INTRODUCTION

1. The present document is submitted in accordance with paragraph 14 of Commission on Human Rights resolution 2000/9, in which the Commission requested the Secretary-General to submit a report on its implementation to the Commission at its fifty-seventh session.

2. In its resolution 2000/9, the Commission decided, inter alia, to encourage the Committee on Economic, Social and Cultural Rights to continue its efforts towards the promotion and protection of human rights at the national and international levels and the full realization of specific rights, notably through the drafting of further general comments; to request the High Commissioner to invite all States and intergovernmental and non-governmental organizations to submit their comments on a draft optional protocol for the consideration of communications in relation to the Covenant; to appoint, for a period of three years, a special rapporteur whose mandate would focus on adequate housing as a component of the right to an adequate standard of living, and who would report annually to the Commission on the activities relating to the mandate; to request the Special Rapporteur on the right to education to submit a report to the Commission at its fifty-seventh session; to request the High Commissioner for Human Rights to organize in 2001 a workshop to identify progressive developmental benchmarks and indicators related to the right to education; and to invite the United Nations Children's Fund (UNICEF) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) to continue to develop a regular dialogue with the Special Rapporteur on the right to education and to submit to the Commission information pertaining to their activities in promoting primary education, with specific reference to women and children, particularly girls.

3. Information contained in the present report is drawn from the work of the treaty bodies, especially the Committee on Economic, Social and Cultural Rights, the Commission on Human Rights relevant special procedure, the United Nations Development Programme (UNDP), UNICEF, UNESCO, the World Bank Group and other organizations.

II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

4. As at 30 November 2000, the International Covenant on Economic, Social and Cultural Rights had been ratified or acceded to by 143 States. The Covenant entered into force on 3 January 1976, in accordance with the provisions of its article 27. A list of States parties, as well as information on the status of the submission of reports by States parties, can be found in document E/C.12/2000/10 of 5 September 2000. Information on the status of the Covenant and reservations, withdrawals, declarations and objections under the Covenant can be found in document E/C.12/1993/3/Rev.4 of 5 August 1999.

A. Proposal for a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights

5. A separate document (E/CN.4/2001/62) will be submitted to the Commission containing the comments submitted by States on the proposal for a draft optional protocol for the consideration of communications in relation to the International Covenant on Economic, Social and Cultural Rights, as well as on the options regarding such a draft optional protocol.

6. Pursuant to paragraph 7 (f) of Commission resolution 2000/9, the Office of the High Commissioner for Human Rights (OHCHR) is organizing, in cooperation with the International Commission of Jurists, a workshop on the justiciability of economic, social and cultural rights, with specific reference to the draft optional protocol to the Covenant. This workshop will be held on 5 and 6 February 2001, in Geneva. The proceedings of the workshop will be reproduced as an addendum to the aforementioned document on a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights (E/CN.4/2001/62).

B. Supporting the work of the Committee on Economic, Social and Cultural Rights

7. The Committee's Plan of Action to Strengthen the Implementation of the International Covenant on Economic, Social and Cultural Rights (adopted in 1996) has been included in a project aimed at enhancing the support provided to all treaty bodies, to be financed by contributions resulting from the OHCHR Annual Appeals. The Plan of Action identified several needs, including: (a) greater support for the reporting process in view of the backlog of reports awaiting consideration; (b) strengthened analytical support for the preparation of research papers and for more carefully tailored suggestions for advisory services and better follow-up; and (c) additional assistance to States in both the reporting and follow-up processes through the organization of workshops. Reference is made in the OHCHR Annual Appeals to the continued need for such support, as well as for holding extra sessions of the Committee in 2000 and 2001.

8. The participation of a wide range of interested parties, including specialized agencies and NGOs, has assisted the Committee and given support for research and other vital components of the reporting procedure. In 2000, the Committee prepared one general comment and organized two informal substantive workshops/consultations.

9. The increased support and resources have enabled the Committee to expand its substantive work, including liasing with specialized agencies whose mandates fall within the scope of the Covenant, such as UNDP, the World Health Organization, ILO, FAO and UNESCO; dissemination of information; and the provision of expert assistance on economic, social and cultural rights.

10. The Committee has established the practice of encouraging NGO participation in its work, particularly in the framework of the State reporting procedure. It has also addressed various substantive issues related to economic, social and cultural rights, in cooperation with NGOs. At its extraordinary session in August 2000, the Committee adopted a paper which contains guidelines for NGOs on how to participate in the work of the Committee (E/C.12/2000/6).

11. The Committee also recognizes the importance of national plans of action on human rights, as called for in paragraph 71 of the 1993 Vienna Declaration and Programme of Action. Since then, the Committee has regularly emphasized the need for such plans of action in its constructive dialogue with States parties during the consideration of State reports.

C. General comments and days of general discussion

12. The Committee on Economic, Social and Cultural Rights has adopted 14 general comments since its first session in 1987. The Committee endeavours, through its general comments, to make the experience gained from the examination of States' reports available for the benefit of all States parties, in order: to assist and promote their implementation of the Covenant; to draw their attention to insufficiencies disclosed in a large number of reports; to suggest improvements in the reporting procedures; and to stimulate the activities of the States parties, international organizations and the specialized agencies concerned in achieving progressively and effectively the full realization of the rights recognized in the Covenant.

13. Since the fifty-sixth session of the Commission, the Committee has adopted General Comment No. 14 on the right to health as contained in article 12 of the Covenant (E/C.12/2000/4). This general comment provides an authoritative interpretation of the right to health, including its normative content, specific issues of broad application (such as non-discrimination, the health of women and the health of vulnerable groups), the obligations of States in order to realize the right to health, and the role of non-State actors, particularly in the context of international cooperation.

14. At each session, the Committee devotes one day, usually the Monday of the third week, to general discussion of a particular right or of a particular aspect of the Covenant. The purpose is twofold: to assist the Committee in deepening its understanding of the relevant issues; and to encourage inputs into its work from all interested parties.

15. On 27 November 2000, the Committee held a day of general discussion on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (article 15.1 (c) of the Covenant). This day of general discussion was organized in cooperation with the World Intellectual Property Organization (WIPO).

16. A wide range of speakers addressed the Committee, representing various specialized agencies and United Nations programmes (UNESCO, WIPO, the World Trade Organization and UNAIDS) and non-governmental organizations, some of which submitted background papers.[1]

III. THE RIGHT TO EDUCATION

17. In 1998 the Commission decided to appoint a special rapporteur on the right to education for a period of three years (resolution 1998/33), Ms. Katarina Tomasevski. Her mandate included reporting on the status of the progressive realization of the right to education, in particular access to primary education and the difficulties encountered in the implementation of the right to education; and promoting assistance to Governments in working out and adopting plans of action to secure the progressive implementation of the principle of compulsory primary education free of charge for all.

18. In 2000 the Commission welcomed inter alia the focus given by the Special Rapporteur on the identification of obstacles to the realization of the right to education at the domestic and international levels, on the main streaming of gender and on the legal enforcement of the right to

education. It also invited the Special Rapporteur to intensify her efforts to identify ways and means to overcome obstacles and difficulties in the realization of the right to education, notably through international cooperation (resolution 2000/9, paras. 9 and 10).

19. With respect to the work of the Special Rapporteur, two missions were undertaken in 1998 and 1999, to Uganda and the United Kingdom of Great Britain and Northern Ireland. The reports on these missions were issued in documents E/CN.4/2000/6/Add. 1 and E/CN.4/2000/6/Add.2, respectively. They are also available on the Web site of the Office of the High Commissioner for Human Rights. Another field mission is scheduled to be undertaken early in 2001. The annual report of the Special Rapporteur covering her activities in 2000 will be issued in document E/CN.4/2001/52.

20. It is worthy of note that the Special Rapporteur contributed to the integration of human rights into the Dakar World Education Forum convened from 26 to 28 April 2000 to review the 1990 Jomtien commitments in the field of education. The Dakar Framework for Action made the following specific reference to the human right to education: "Education is a fundamental human right. It is the key to sustainable development and peace and stability within and among countries, and thus an indispensable means for effective participation in the societies and economies of the twenty-first century, which are affected by rapid globalization." Furthermore, the Framework stressed that all children, young people and adults have the human right to benefit from an education aimed at improving their lives.[2]

IV. THE RIGHT TO ADEQUATE HOUSING

A. Activities of the Special Rapporteur

21. In its resolution 2000/9 the Commission decided to appoint a special rapporteur whose mandate would focus on adequate housing as a component of the right to an adequate standard of living, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, and article 27, paragraph 3, of the Convention on the Rights of the Child, and on the right to non-discrimination as reflected in article 14, paragraph 2 (h) of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination (para. 7 (c)).

22. Accordingly, on 4 September 2000, the Chairman of the Commission appointed Mr. Miloon Kothari of India as the Special Rapporteur on the Right to Adequate Housing for a period of three years. The Special Rapporteur has been requested, in fulfilment of his mandate: (i) to report on the status, throughout the world, of the realization of the rights that are relevant to the mandate; (ii) to promote, as appropriate, cooperation among and assistance to Governments in their efforts to secure these rights; (iii) to apply a gender perspective in his work; (iv) to develop a regular dialogue and discuss possible areas of collaboration with Governments, relevant United Nations bodies, specialized agencies, international organizations in the field of housing rights, inter alia the United Nations Centre for Human Settlements (UNCHS-Habitat), non-governmental organizations and international financial institutions, and to make recommendations on the realization of the rights relevant to the mandate; (v) to identify possible types and sources of financing for relevant advisory services and technical cooperation; (vi) to

facilitate, where appropriate, the inclusion of issues relating to the mandate in relevant United Nations missions, field presences and national offices; and (vii) to submit to the Commission an annual report covering the activities relating to the mandate.

23. The preliminary report of the Special Rapporteur (E/CN.4/2000/51) will outline pertinent issues concerning the right to adequate housing and proposed approaches for the consideration of the Commission.

24. In pursuance of the Commission's request in resolution 2000/9 that the High Commissioner provide all the necessary resources for the effective fulfilment of the mandate, OHCHR is supporting the mandate, by: (a) providing substantive and administrative support to the Special Rapporteur on the right to adequate housing; (b) strengthening its partnership with UNCHS; and (c) promoting coordination among other relevant entities of the United Nations system.

25. Since the appointment of the Special Rapporteur, OHCHR has organized various consultations in Geneva. OHCHR has developed a close partnership with UNCHS in promoting the implementation of the right to adequate housing, given the central role UNCHS plays in the field of human settlements. Preliminary discussions with UNCHS identified the following areas of possible cooperation for further consideration: (a) substantive support to the Special Rapporteur in carrying out his mandate; (b) developing a joint United Nations housing rights programme and, in this context, supporting the UNCHS Global Campaign on Secure Tenure as a component of housing rights; (c) promoting integration of a housing rights component in field operations, advisory services and technical cooperation activities; and (d) contributing to the Istanbul +5 process.

26. Some of these proposed activities will build upon past initiatives and achievements, in particular the Expert Group Meeting on Practical Aspects of the Human Right to Adequate Housing, jointly organized by OHCHR and UNCHS in Geneva from 9 to 11 March 1999. OHCHR also contributed to the first substantive session of the Preparatory Committee for the Special Session of the General Assembly on the Overall Review and Appraisal of the Implementation of the Habitat Agenda, held in Nairobi from 8 to 12 May 2000. Finally, OHCHR participated in an inter-agency meeting on the coordinated implementation of the Habitat Agenda by the United Nations system, held in New York on 15 June 2000.

27. With a view to achieving greater synergy and complementarity, the High Commissioner has placed particular emphasis on the importance of promoting close coordination among the entities of the United Nations system and other international organizations. The need for such inter-agency coordination mechanisms for the mandates of the Commission was also reaffirmed at a consultation meeting between experts on the right to development and on economic, social and cultural rights and United Nations agencies and organizations, held in Geneva on 6 April 2000.

28. OHCHR organized an inter-agency consultation on the right to adequate housing in Geneva on 28 November 2000 with a view to assisting the Special Rapporteur to: (a) take stock of activities carried out by international organizations, United Nations bodies, specialized agencies, funds and programmes relevant to the right to adequate housing; and (b) discuss the

scope and modalities for cooperation with and among United Nations agencies and international organizations on the question of the right to adequate housing. The meeting was attended by representatives of 10 agencies and organizations, three observers and two members of the Committee on Economic, Social and Cultural Rights. UNCHS acted as the main partner agency. The participants identified several areas of convergence between the right to adequate housing and their respective agency mandates, and offered practical suggestions in support of the work of the Special Rapporteur. It was recommended that such inter-agency meetings be organized on a regular basis to discuss further the modality for the operationalization of the right to adequate housing.

V. THE RIGHT TO FOOD

29. With the appointment on 4 September 2000 by the Chairman of the Commission of Mr. Jean. Ziegler (Switzerland) as Special Rapporteur on the right to food, pursuant to its resolution 2000/10, the Commission responded to the need for an integrated and coordinated approach in the promotion and protection of the right to food. The first report by the Special Rapporteur will be submitted to the Commission in document E/CN.4/2001/53.

VI. CONCLUSIONS

30. The twenty-fifth anniversary of the entry into force of the International Covenant on Economic, Social and Cultural Rights will be commemorated on 16 December 2001. The Commission may wish to consider activities to be undertaken before that date. The Commission may also wish to envisage possible ways of improving practical approaches for the realization of economic, social and cultural rights, including the rights to food, education and adequate housing.

Notes

[1] E/C.12/2000/12-19.

[2] The Dakar Framework for Action, Education for All: Meeting our collective commitments, article 3. Drawn from the following UNESCO Web site as of the time of writing the present report: http://www2.unesco.org/wef/en-conf/dakframeng.shtm.